

**KENTUCKY PERSONNEL BOARD  
MINUTES OF JANUARY 8, 2016**

1. The regular monthly meeting of the Kentucky Personnel Board was called to order by Chairman Doug Sapp on January 8, 2016, at approximately 9:30 a.m., 28 Fountain Place, Frankfort, Kentucky.

Board Personnel Present:

Wayne "Doug" Sapp, Chairman  
Larry B. Gillis, Vice Chairman  
David F. Hutcheson, Jr., Member  
Amanda Cloyd, Member  
Mark A. Sipek, Executive Director and Secretary  
Boyce A. Crocker, General Counsel  
Cynthia Perkins, Administrative Section Supervisor

Board Personnel Absent:

David B. Stevens, Member  
Tommy W. Chandler, Member

2. **READING OF THE MINUTES OF REGULAR MEETING HELD DECEMBER 11, 2015**

The minutes of the last Board meeting had been previously circulated among the members. Chairman Sapp asked for additions or corrections. Mr. Hutcheson moved to approve the minutes, as submitted. Ms. Cloyd seconded and the motion carried 4-0. The Board members signed the minutes.

3. **EXECUTIVE DIRECTOR'S REPORT**

Mr. Sipek stated that December 2015 had the highest number of appeals filed in one month, as there were 58 new appeals. Several were from employees of the Transportation Cabinet and basically involved the same issue. Mr. Hutcheson asked if the Board was going to consolidate the Transportation appeals. Mr. Sipek responded that it is possible to consolidate some of them and it was something being looked at. In the meantime, the Transportation Cabinet is assisting the Board by gathering employees at one location for pre-hearing conferences by telephone. Mr. Crocker stated that the majority of the Transportation appeals are under motion practice and have not been set for an evidentiary hearing.

The Personnel Board, along with other agencies around Fountain Place, was without power and telephones for two days before the New Year's holiday. However, the office remained open both days for mail delivery and for anyone wanting to file something with the Board.

At the conclusion of Mr. Sipek's report, Chairman Sapp called for the Personnel Cabinet's report.

#### **4. PERSONNEL CABINET'S REPORT**

Secretary Thomas Stephens and the Hon. Lesley Bilby, General Counsel, came forward to present the Personnel Cabinet's report.

Mr. Stephens introduced the Cabinet's General Counsel, the Hon. Lesley Bilby, to the Board.

Mr. Stephens provided a summary of Governor Bevin's Executive Orders (2015-049 and 2015-050) concerning hiring processes and procedures relating to the classified service have been transferred to the Personnel Cabinet from the Secretary of the Governor's Executive Cabinet.

#### **5. Petitioned Position – Justice and Public Safety Cabinet Deputy Secretary**

Secretary Stephens and Tina Moss were present for the petitioned position. (Secretary John Tilley was available by phone, if needed.)

Ms. Moss stated that the Justice and Public Safety Cabinet Transition Team recommended establishing this position, as the Cabinet was large enough to have two Deputy Secretaries to efficiently manage all the programs and departments. Secretary Stephens encouraged the Board to approve this request.

Mr. Hutcheson moved to approve the petitioned position request for a Deputy Secretary by the Justice and Public Safety Cabinet. Ms. Cloyd seconded and the motion carried 3-0, with Mr. Gillis recusing.

#### **6. ORAL ARGUMENTS**

##### **A. Perry Puckett v. Cabinet for Health and Family Services**

Present for oral arguments were counsel for Appellant, the Hon. David Leighty, and counsel for Appellee, the Hon. Jennifer Wolsing. After presenting oral arguments, the parties answered questions from the Board.

##### **B. Sharon A. McCown v. Justice and Public Safety Cabinet/Corrections**

Present for oral arguments were the Appellant, Sharon McCown, and counsel for Appellee, the Hon. Edward Baylous. After presenting oral arguments, the parties answered questions from the Board.

7. **MOTIONS**

**Lisa Carraro v. Cabinet for Health and Family Services (2012-268)**

- Appellant's Motion to Strike Cabinet's Response to Appellant's Exceptions and a Request for Oral Argument
- Appellee's Response to Appellant's Motion to Strike and Request for Oral Argument

Mr. Hutcheson moved to deny Appellant's Motion to Strike Cabinet's Response to Appellant's Exceptions and a Request for Oral Argument. Mr. Gillis seconded and the motion carried 4-0.

8. **CLOSED SESSION**

Mr. Gillis moved that the Board go into Executive Session for the purposes of discussing complaints, proposed or pending litigation, and deliberations regarding individual adjudications. Ms. Cloyd seconded. Chairman Sapp stated that the motion had been made and seconded for the Personnel Board to retire into closed Executive Session, passed by a majority vote of the members present, with enough members present to form a quorum. Pursuant to KRS 61.810(1) (c), (f), and (j), the Kentucky Open Meetings Act, the Board will now retire into closed Executive Session. Specific justification under the Kentucky Open Meetings Act for this action are as follows, because there will be discussion of proposed or pending litigation against or on behalf of the Board; and deliberations regarding individual adjudication. The motion carried 4-0. (10:35 a.m.)

Mr. Hutcheson moved to return to open session. Ms. Cloyd seconded and the motion carried 4-0. (11:20 a.m.)

9. **CASES TO BE DECIDED**

The Board reviewed the following cases. At that time, the Board considered the record including the Hearing Officers' findings of fact, conclusions of law and recommendations, any exceptions and responses which had been filed, and oral arguments where applicable.

A. **Perry Puckett v. Cabinet for Health and Family Services (2009-272)**  
**[On Remand]**

Mr. Gillis, having noted Appellant's exceptions, Appellee's response and oral arguments, moved to defer this matter to the next Board meeting. Ms. Cloyd seconded and the motion carried 4-0.

[Based on Mr. Leightty's request, Mr. Crocker was not present during the discussion of the case.]

**B. Sharon A. McCown v. Justice and Public Safety Cabinet/Corrections  
(2015-195)**

Ms. Cloyd, having noted Appellant's exceptions and oral arguments, moved to accept the recommended order dismissing the appeal. Mr. Hutcheson seconded and the motion carried 4-0.

**C. Terri S. Bradshaw v. Education and Workforce Development Cabinet  
(2014-327 and 2015-013)**

Mr. Gillis (having noted Appellant's Exceptions & Request for Oral Argument Returned as untimely) moved to accept the recommended order sustaining the appeals to the extent therein. Ms. Cloyd seconded and the motion carried 4-0.

**D. Lisa Carraro v. Cabinet for Health and Family Services (2012-268)**

[These motions were denied earlier by the Board: Appellant's Motion to Strike Cabinet's Response to Appellant's Exceptions and a Request for Oral Argument.]

Mr. Gillis, having noted Appellant's exceptions and Appellee's response, moved to accept the recommended order sustaining the appeal to the extent therein. Mr. Hutcheson seconded and the motion carried 4-0.

**E. Jerry R. Hadley v. Cabinet for Health and Family Services (2015-104)**

Mr. Hutcheson, having noted Appellant's exceptions, moved to accept the recommended order dismissing the appeal. Ms. Cloyd seconded and the motion carried 4-0.

**F. Dwight D. Parrish v. Transportation Cabinet (2015-127)**

Mr. Gillis, having noted Appellant's exceptions and Appellee's response, moved to accept the recommended order dismissing the appeal. Mr. Hutcheson seconded and the motion carried 4-0.

**G. Gary Sewell v. Justice and Public Safety Cabinet/Juvenile Justice (2014-332)**

Mr. Hutcheson, having noted Appellee's Exceptions, moved to accept the recommended order dismissing the appeal. Mr. Gillis seconded and the motion carried 4-0.

**H. Sherre Smith-Jones v. Justice and Public Safety Cabinet/Juvenile Justice  
(2015-035)**

Mr. Gillis moved to accept the recommended order dismissing the appeal. Mr. Hutcheson seconded and the motion carried 4-0.

I. **Barbara G. Whitney v. Justice and Public Safety Cabinet/Corrections (2015-131)**

Ms. Cloyd moved to accept the recommended order dismissing the appeal. Mr. Hutcheson seconded and the motion carried 4-0.

**Show Cause Order – No Response Filed – Appeal Dismissed**

Mr. Hutcheson moved to accept the recommended order dismissing the appeal for failure to timely prosecute the appeal. Ms. Cloyd seconded and the motion carried 4-0.

A. **Jenna G. Crockett v. Cabinet for Health and Family Services (2015-198)**

10. **WITHDRAWALS**

Mr. Gillis moved to accept the following withdrawal of appeals *en bloc* and to dismiss the appeals. Ms. Cloyd seconded and the motion carried 4-0.

A. **Nancy Shelton v. Cabinet for Health and Family Services (2015-225)**

B. **Sharon Walker v. Cabinet for Health and Family Services and Christy Taylor (2015-283)**

C. **Randal Oates v. Cabinet for Health and Family Services (2015-116)**

11. **SETTLEMENTS**

Ms. Cloyd moved to issue a settlement order and to sustain the appeal to the extent set forth in the settlement as submitted by the parties. Mr. Hutcheson seconded and the motion carried 4-0.

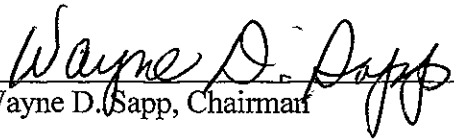
A. **Tammy Hamilton v. Cabinet for Health and Family Services (2015-027)**

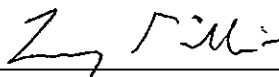
12. **OTHER**

**Executive Orders 2015-049 and 2015-050**

Mr. Sipek stated that he liked the practice of Secretary Stephens providing information to the Board. As for the minimum wage being rescinded, Mr. Sipek stated that employees who had received a raise as a result of the prior executive order would not see a reduction, and, therefore, does not anticipate many appeals as a result. As to the "hiring freeze," Mr. Sipek stated that it is a better practice for the Personnel Cabinet to handle requests for exemption.

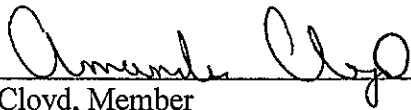
There being no further business, Mr. Hutcheson moved to adjourn. Ms. Cloyd seconded and the motion carried 4-0. (11:30 a.m.)

  
Wayne D. Sapp, Chairman

  
Larry Gillis, Vice Chairman

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David B. Stevens, Member

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David F. Hutcheson, Jr., Member

  
Amanda Cloyd, Member

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Tommy W. Chandler, Member